

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA,)	
)	Case No.
Plaintiff,)	
)	
v.)	
)	
ROBERT E. BISHOP and)	
LESLIE BISHOP,)	
)	
Defendants.)	
_____)	

COMPLAINT

Plaintiff, United States of America, by and through undersigned counsel, complains and alleges as follows:

1. This civil action is brought by the United States to reduce to judgment: (1) the unpaid federal income tax assessments against defendants Robert E. and Leslie Bishop for the 2001 and 2002; (2) the unpaid joint federal income tax assessments against defendants Robert E. and Leslie Bishop for the 2017 tax year; and (3) the unpaid trust fund recovery penalty assessments against defendant Robert E. Bishop for the tax quarters ending March 31, 2001 through December 31, 2002.

JURISDICTION AND VENUE

2. This action is authorized and sanctioned by the Chief Counsel, Internal Revenue Service, a delegate of the Secretary of the Treasury, and is brought at the direction of the Attorney General of the United States, in accordance with the provisions of 26 U.S.C. § 7401.

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. § 7402(a).

4. Venue is appropriate in this Court pursuant to 28 U.S.C. §§ 1391(b) and 1396 because Robert and Leslie Bishop reside in Brevard County, Florida, within the jurisdiction of this Court.

COUNT I: REDUCE ROBERT AND LESLIE BISHOP'S FEDERAL INCOME TAX ASSESSMENTS FOR THE 2001 AND 2002 TAX YEARS TO JUDGMENT

5. Robert E. and Leslie Bishop (the "Bishops"), a married couple, filed joint federal income tax returns ("Forms 1040") for the 2001 and 2002 tax years on or before April 15, 2002, and April 15, 2003, respectively.

6. The IRS examined the Bishops Forms 1040 for the 2001 and 2002 tax years and asserted that they owed additional tax, penalties, and interest for those years.

7. Thereafter, a delegate of the Secretary of the Treasury assessed against the Bishops the agreed upon deficiencies, penalties, and interest for the 2001 and 2002 tax years on the date and in the amounts set forth in the following table:

Tax Year	Assessment Date	Tax	Interest	Penalty
2001	April 6, 2009	\$63,476.00	\$39,438.11	\$12,695.20 (accuracy-related)
2002	April 6, 2009	\$48,246.00	\$25,097.57	\$9649.20 (accuracy-related)

8. The Bishops and the IRS consented in writing to extend the limitations period on assessment for the 2001 and 2002 tax years to December 31, 2009.

9. A delegate of the Secretary of the Treasury properly gave notice of the unpaid federal income tax liabilities described in paragraph 7, above, to the Bishops and made demands for payment as required by law.

10. Despite notice and demand for payment, the Bishops have failed to pay in full their federal income tax liabilities for the 2001 and 2002 tax years.

11. Taking into account all payments, credits, and abatements, Robert E. Bishop owes \$235,536.75, as of June 10, 2019, and Leslie Bishop owes \$235,942.83, as of June 10, 2019, for

their unpaid tax liabilities for the 2001 and 2002 tax years, plus fees, interest, and all statutory additions thereafter provided by law.

12. Although the Bishops are jointly liable for the assessments described in paragraph 8, above, they owe different amounts for each year because Leslie Bishop filed a request for innocent spouse relief that resulted in split spousal assessments for those years. Consequently, penalties and interest have accrued separately for the 2001 and 2002 tax years, and limitations periods to collect their tax liabilities are measured separately.

13. The limitations periods to collect Robert E. Bishop's tax liabilities for the 2001 and 2002 tax years were tolled by an offer in compromise he submitted for those years.

14. The limitations period to collect Leslie Bishop's tax liabilities for the 2001 and 2002 tax years were tolled by the innocent spouse relief request she submitted for those years.

15. As a result of Robert E. Bishop's offer in compromise and Leslie Bishop's innocent spouse relief request, the limitations periods to collect the Bishops' 2001 and 2002 tax liabilities have not expired for either Robert E. Bishop or Leslie Bishop, and this action to collect their liabilities is timely.

COUNT II: REDUCE ROBERT AND LESLIE BISHOP'S FEDERAL INCOME TAX ASSESSMENTS FOR THE 2017 TAX YEAR TO JUDGMENT

16. The Bishops filed a Form 1040 for the 2017 tax year as married filing jointly, but failed to pay in full the tax they reported on that return.

17. A delegate of the Secretary of the Treasury assessed against the Bishops the tax that they reported on their Form 1040 for the 2017 tax year, plus a penalty and interest, on the date and in the amounts set forth in the following table:

Tax Year	Assessment Date	Tax	Interest	Penalty
2017	November 12, 2018	\$20,588.00	\$459.95	\$548.97 (failure to pay)

18. A delegate of the Secretary of the Treasury properly gave notice of the unpaid federal income tax liabilities described in paragraph 18, above, to the Bishops and made demands for payment as required by law.

19. Despite notice and demand for payment, the Bishops have failed to pay in full their federal income tax liability for the 2017 tax year.

20. Taking into account all payments, credits, and abatelements, the Bishops owe \$18,198.13, as of June 10, 2019 for their unpaid joint federal income tax liability for the 2017 tax year, plus fees, interest, and all statutory additions thereafter provided by law.

**COUNT III: REDUCE TRUST FUND RECOVERY PENALTY ASSESSMENTS
AGAINST ROBERT BISHOP TO JUDGMENT**

21. Robert E. Bishop owned and operated Bobs [sic] Complete Landscaping [sic], Inc. from 1994 until 2009.

22. Bobs Complete Landscaping filed Forms 941, Employer's Quarterly Tax Returns, for the tax quarters ending March 31, 2001 through December 31, 2002 (the "quarters at issue") on or before their respective due dates.

23. The IRS examined the Forms 941 and assessed federal employment tax, interest, and penalties, including fraud penalties, against Bobs Complete Landscaping for the quarters at issue on August 17, 2009.

24. Section 6672 of the Internal Revenue Code (26 U.S.C.) imposes liability upon responsible persons who willfully fail to perform a duty to collect, truthfully account for, or pay over federal income and employment taxes withheld from the wages of his or her employees.

25. For the quarters at issue, Robert E. Bishop was a responsible person who had a duty to collect, truthfully account for, and pay over to the United States the federal income and

employment taxes withheld from the wages paid to the employees of Bobs Complete Landscaping.

26. Robert E. Bishop willfully failed to perform his duty to collect, truthfully account for, and pay over to the United States the federal income and employment taxes withheld from the wages paid to the employees of Bobs Complete Landscaping for the quarters at issue.

27. On October 19, 2010, a delegate of the Secretary of the Treasury assessed trust fund recovery penalties against Robert E. Bishop pursuant to 26 U.S.C. § 6672 for the willful failure to collect, truthfully account for, or pay over to the United States the federal income and employment taxes withheld from the wages paid to the employees of Bobs Complete Landscaping for the quarters at issue. The amounts of the assessments are shown in the following table:

Tax Period	Trust Fund Recovery Penalty
Mar. 31, 2001	\$48,361.21
June 30, 2001	\$48,361.21
Sept. 30, 2001	\$47,696.35
Dec. 31, 2001	\$47,696.35
Mar. 31, 2002	\$48,846.96
June 30, 2002	\$48,846.96
Sept. 30, 2002	\$48,846.96
Dec. 31, 2002	\$48,991.70

28. The trust fund recovery penalty assessments against Robert E. Bishop were timely because the assessments arise from the fraudulent Forms 941 filed by Bobs Complete Landscaping for the quarters at issue. *See* 26 U.S.C § 6501(c)(1).

29. A delegate of the Secretary of the Treasury gave Robert E. Bishop notice of the trust fund recovery penalty assessments described in paragraph 27, above, and made demands for payment as required by law.

30. Despite notice and demand for payment, Robert E. Bishop has failed to pay in full the trust fund recovery penalties assessed against him.

31. Taking into account all payments, credits, and abatements, Robert E. Bishop owes \$530,747.01, as of June 10, 2019, for his unpaid trust fund recovery penalties for the quarters at issue, plus fees, interest, and all statutory additions thereafter provided by law.

WHEREFORE, the United States prays for the following relief:

A. That the Court enter judgment in favor of the United States and against Robert E. Bishop in the amount of \$235,536.75, as of June 10, 2019, for his unpaid federal income tax liabilities for the 2001 and 2002 tax years, plus subsequent statutory additions and interest as allowed by law;

B. That the Court enter judgment in favor of the United States and against Leslie Bishop in the amount of \$235,942.83, as of June 10, 2019, for his unpaid federal income tax liabilities for the 2001 and 2002 tax years, plus subsequent statutory additions and interest as allowed by law;

C. That the Court enter judgment in favor of the United States and against Robert E. Bishop and Leslie Bishop in the amount of \$18,198.13, as of June 10, 2019, for their unpaid joint federal income tax liability for the 2017 tax year, plus subsequent statutory additions and interest as allowed by law;

D. That the Court enter judgment in favor of the United States and against Robert E. Bishop in the amount of \$530,747.01, as of June 10, 2019, for unpaid trust fund recovery penalties for the tax quarters ending March 31, 2001, June 30, 2001, September 30, 2001, December 31, 2001, March 31, 2002, June 30, 2002, September 30, 2002, and December 31, 2002, plus subsequent statutory additions and interest as allowed by law; and

E. That the United States be granted such other and further relief as the Court deems just and proper.

Dated June 11, 2019.

Respectfully submitted,

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

/s/ Thomas K. Vanaskie
THOMAS K. VANASKIE
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 14198
Washington, D.C. 20044
202-305-7921 (v)
202-514-4963 (f)
Thomas.K.Vanaskie@usdoj.gov

Of Counsel:

MARIA CHAPA LOPEZ
United States Attorney

JS 44 (Rev. 02/19)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Thomas K. Vanaskie, U.S. Dep't of Justice, Tax Division
P.O. Box 14198, Washington, DC 20044
202-305-7921

DEFENDANTS

Robert E. Bishop and Leslie Bishop

County of Residence of First Listed Defendant Brevard
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 363 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
26 USC Sec. 7402

Brief description of cause:
Reduce Tax Assessments to Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
780,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

Middle District of Florida

Civil Action No.

Signature of Clerk or Deputy Clerk

Middle District of Florida

Civil Action No.

Signature of Clerk or Deputy Clerk